

DEPARTMENT OF STATE A/CDC/MR
 REVIEWED BY John Kelly DATE 1/24/83
 OFFICE TO WHICH DATE
 TO AUTH.
 FROM
 DESIG. ST. BY
 RELEASE D.T. OCT
 PA OR FOR EXEMPTIONS

578

R

SECRET

Files, p. 10

→ Telegram from Am. Em. in Tel Aviv to State re. Eban's Remarks on Lib. Claims Dec. 24, 1968

No version accusing the ship's officers of negligence p. 2

✓ GOI does not intend to withdraw from promise to indemnify U.S. for damage to Lib. oil p. 2 (from Barbour)

→ Outgoing Telegram from Rusk to Am. Em. re. State 22/183 (Aug. 19, 1968) - articles in UPI + Evening Star re. Israel's offer to pay \$2 mil. for repairs to Lib. ship

Telegram - July 6, 1968 - Aug. 1968
 ✓ OK: Notes from Israeli for Ministry of Aug. 5
 (MFA) considers GOI not liable for damage refers to note of July 4, 1968 - Am. Em. Note # 74 (re: Lib.)

But elsewhere, there is talk of withdrawing this Aug. 5 note (they do)

see Outgoing Telegram - Dept. of State - Sept. 13, 1968 - Rabin asked, U.S. wd. forget GOI note of Aug. 5 + proceed on basis status quo ante. State authorized Embassy to return Aug. 5 note

— END —

31 USC §547 - \$ rec'd. by state in trust for U.S. cit.

SECRET

SECRET

Tina
Rawitz's
notes
from files

Files

1967 - private claims

1968

→ Telegram from Am Em. to State re: Eban's
comments to Knesset re: alleged
U.S. negligence.

✓ w/ I. undertook at time of incident to
indemnify U.S. for loss of life &
prop.

✓ I. pd. damages to families w/ few
months; claim for damage to
ship was postponed by agreement
of parties until U.S. completes
preparation & presentation of all
claims.

→ Memo from Kviatetz (June 4, 1968) re:
distribution of \$ 3,323,500 in full
& final settlement of 34 death claims.

→ List of claimants for personal injuries.

✓ → Talking Paper 5/24/68
Claims on behalf of 60 men injured
in attack not yet ready b/c info.
on more serious cases will not be
complete until therapy concluded.

→ A lot re: private claims

0000000000

[1967-69]

→ Letter of 8/23/77 to Sen. Stevenson from D.J. Bennett, Jr.
Asst. Secy. for Cong. Relations

✓ #2 Small U.S. govt. claim fully discharged
by I. But compensation for physical
damage of ship wasn't. I denied
^{para 4, 5} responsibility but offered to pay nominal
sum. Offer rejected.

→ Copy of 67-5331(?)

✓ June 10, 1967 — Navy Court of Inquiry reviewed
evid.; concluded that while I.
had ample opportunity to ID Lib. and
also existed to suggest possibility
of mistake in ID. Summary of
Oct. of Inquiry proceedings released
by DOD June 28, 1967. p.1
I. offered to make financial amends
for loss of life & material damage. p.1
I denied responsibility but offered to
pay nominal sum; rejected. p.2

→ Incoming Telegram from Am. Em. in Cairo
~~Dec.~~ (Dec. 1977)

Informal raising of claim again (Hadn't
raised claim for # of yrs.)
Ellis?

→ Unclassified Memo of 7/21/76 from Robt.
Korn — all of countries v. which
U.S. has outstanding claims.

→ Hearing Before Subcttee of Ctte on Govt. Operations

House — Collecting Delinquent Int'l. Debts
Owed to U.S. — March 4, 1976

→ Aigram 7/6/68 — enclosing copy of
Em.'s note to GOI espousing claim
for losses re: physical damage.

Note was presented to Ministry of For.
Affairs July 3, 1968.

✓ Claim for (\$7,644,146) = amt. already
expended + estimates amt. req'd.
to restore the U.S.S. Liberty &
its equipment to its condition before
the attack on June 8, 1967.

✓ → Narrative Based on Report of Ct. of Enquiry
on Armed Attack of U.S. Liberty

- 1) Ship in int'l. H2O p.1
- 2) " properly marked re: ID + nationality p.1
- 3) Ample opportunity for I. to ID Lib p.1
- 4) Lib. fired at aircraft + torpedo boats only
after she had been attacked + hit. p.1
- 5) Ct. convened by Adm. John S. McCain,
Jr., USN, Commander in Chief of U.S.
Naval Forces in Europe; he held hearings
in London + aboard Lib p.1
- 6) President of Ct. = Rear Adm. I.C. Kidd,
USN; Others in Ct. = Captains
Bernard J. Lauff + Bert M. Atkinson p.1
- 7) No evid. heard from attacking nation.
Ct. not responsible for ruling on
culpability of attackers. p.2
- 8) Witnesses suggested that flag may have been
difficult for attackers to see. But, on

SECRET

Files, p. 4

- 3 separate occasions, there was significant surveillance of the Lib. p. 2
- 9) At no time did Lib. approach closer than 13.6 nautical miles to land. Under operational control of Commander 6th Fleet. p. 4
- 10) Flying normal-sized U.S. flag (5'x8') at masthead. Name printed on stern in English, USN letters & #5 on bow. p. 5
- 11) In appendix to findings, Ct. noted that Lib. might have been mistaken for the Egyptian supply ship EL QUSAIR; but there is only superficial resemblance, & EL Q. is 1/2 the size of Lib. p. 16
(missing at least one page)

→ Supplementary Talking Points for use w/ Cong. Howard W. Robison.

✓ Israeli military investigation: most likely...
concluded - no crim. negligence;
attack made thru innocent mistake
Found no legal basis for prosecution
of any individual.

✓ → Report of Attack on U.S.S. Lib (carbon)
June 8, 1967 - shortly after attack,
I. informed USA of attack &
assumed responsibility for "tragic
error." p. 2

June 10, 1967 - GOI, in diplomatic
note to Sec'y. of State renewed
its expression of regret & said "the
GOI is prepared to make amends for
the tragic loss of life & material
damage." p. 2

SECRET

Files, p 5

✓ June 10, 1967 - (after receipt of I's note) — State presented note to I ambass. in D.C. saying I knew or shd. have known ID of Lib. — or at least that she was U.S. ship. pp 2-3

✓ June 12, 1967 — GOI sent note to USG that it is premature to draw conclusions. Noted that ship was in area which United Arab Republic had warned neutral vessels to avoid, as it was area of hostilities. p. 4

* GOI repeated its readiness to make amends. ^{as it 164 7 160} p. 9

34 men killed; 170 injured. p. 5

Re: prop. damage — info. being collected as to costs of ship + O. & equipmt., date of acquisition, subsequent improvements + repairs, FMV of prop., + loss of use of prop. p. 6

✓ → June 12, 1967 Note from I Ambass to S. of St.

cc p. 2, 4 GOI immediately assumed responsibility for error p. 1

GOI took initiative to offer to make amends for loss of life + material damage. p. 2

GOI renews its readiness to make amends. p. 2

→ June 10, 1967 note from State
USG expects that GOI "will provide compensation in accordance w/ I.L. to the extent that it is possible to compensate for the losses sustained in this tragic event." p. 3

SECRET

Files, p.6

→ Israeli Defense Forces Preliminary arguing
Ship was outside territorial H₂O altho
in a zone declared dangerous for shipping.
p. 9

[1969-]

→ June 13, 1978 Memo to Mark B.
Feldman from LIC - Thomas T.F.
Huang re: Draft Telegram to Tel
Aviv re: USS Lib. Claim

USG's position - loss of +
damage to USS Lib. is in
amt. of \$7.6 mil. plus
interest, in accordance w/ IC
USG is prepared to negotiate

→ Telegram from Tel Aviv Feb. (22) 1978
Said that the Evron that amt.
might indeed be negotiated.

from Lewis to Sec'y of State.

→ Outgoing Telegram from State - Feb. 1978
said \$7.6 mil. claim
Contains text of note outlined to Am. Em.
in Tel Aviv.

→ Memo to NEA - M. Velities
1. Mr. Thomas NEA/Int. J. Walter B. Smith II.
Feb. from Michael G. Henderson →
Is this at? refers to \$7.3 mil claim, p. 1

SECRET

M Files, p. 7

→ Memo re: Talking points re: USS Lib. Incident Nov. 1, 1971

1 July 1, 1968, USG presented formal diplomatic claim to GOI for \$7.6 mil. for damages. Interest
see P. 6 - Memo re: Agency { * was not included as an element of the claim. p. 2

In Aug. 1971, GOI offered to pay USG \$100,000 "... in token of the (GOI) recognition of its liability in the matter."

Sept. 1971 - USG rejected offer b/c it was a token offer & not a substantial offer of payment. b/c it had no relationship to amt. of damage actually sustained & b/c acceptance led to establish an undesirable precedent. p. 3

Last request (before one in 1978) was on or about 22 Sept. 1971. p. 3

→ Front page → Telegram Sep. 76 — see p. 5 for listing of outstanding claims & actions on them. Etc. (See red tabs).

→ Letter to Stackhouse from Owen Zerkelien 9/30/71 — we agreed to hold prop. claim in abeyance until all death & injury claims were taken care of.

0000000000

SECRET

Files, p. 8

1977

→ List (repeat) of claims v. for. gov't.

[SS Liberty Claim (v. Israel)]

→ Summary of Proceedings (already read)

→ Report of Armed Services Investigating
Subcommittee of Comm. on Armed Services
— Review of Dept. of Defense
Worldwide Communications
H. Res. 201
92^d Cong. 1 May 19, 1971
1st Sess.

→ 13 Sept. 1967 Report of Material
Inspection of USS Lib.

List of technical problems.

✓ → 1 Sept. 1967 Claims re: Lib.
From: Commander Naval Ships System Command
To: JFH

* Estimated cost of restoring ship =
(\$5,424,202) p. 1
Has breakdown of estimate

But, estimated actual cost of repair
will probably exceed estimated
cost b/c of 4 conditions. p. 2

P. 3 — which is From: Chief of Naval Operations
to: JFH. More detailed inspection
indicated that \$2.2 to 2.5 will be req'd.
Revise estimate to \$7,472,800

SECRET

Do you
need to do it
when you approve
a claim?

41

Regulation
itself
for. Admin
manual

Request
for Auth.
to Negotiate

Circular 775
Action
mem

Files, p. 9

Regulation
itself
for. Admin
manual
↓
request
to floor
approved
to negotiate
Legal
council
to

MF
No problem.
Few editorial
comments
Terry
1975
by
Hilbert
Brown
re
debits

Telegram from Am. Em. in Tel Aviv to
Secy of State June 69.

#1 "If we ask GOI for substantive reply
re ship damage claim, I wd.
anticipate receiving a legalistic
argument, probably along lines of
original note of Aug. 5 (Tel
Aviv 4298) endeavoring to disclaim
liability." p. 1

#2 While there is no doubt that Israel
bears responsibility for error, State
shd. consider that we issued
instructions to the vessel to move
out of the area. (Instructions did not
reach ship in time.) "It can be argued
that this action on our part confirmed
our conclusion that the situation in
the ship's area of operation involved
unacceptable risk & this recognition
cd. be construed as attenuating at
least morally if not legally Israeli
responsibility." p. 1

What
Israel
knows
it
- Yes
public
knowledge

What
does
liability
turn on?

Further, Navy does not intend to
refit the Lib. p. 1

#3 Concern re: precedent - we can't get
\$ for material damage from friendly
country - what about unfriendly ones? p. 2

#4 Unlikely that U.S. will obtain anything
like full damages for the ship claim.

Seeks authorization to approach Israel
informally re: possibility of negotiating
a settlement. only course taken
paymt. p. 2

(From
Barbour)